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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,992	04/14/2004	Scott P. Alcott	8285/677	4979
757	7590	01/26/2006		
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER NGUYEN, DUC MINH	
			ART UNIT	PAPER NUMBER
			2643	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/823,992

Applicant(s)

ALCOTT ET AL.

Examiner

Duc Nguyen

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 5-6 are rejected under 35 U.S.C. 102(a) as being anticipated by McLeodUSA.

Consider claims 5-6. McLeod teaches a method and apparatus of generating a billing record for telephone subscribers comprising the steps of receiving a transaction record (e.g., at the end of each month, McLeod compiles all of your long distance calls); processing the transaction data by a plurality of rate plans (e.g., McLeod compares and rates all of your long distance calls against the most popular plans of AT&T, MCI and Sprint); comparing the toll amounts from each of the plurality of rate plans to determine a lowest toll amount (e.g., the amount of \$322.81 is based on the lowest plan charges, the MCI plan); deducting an amount x from the lowest toll amount to form a final toll amount (e.g., see term agreements, if the monthly total usage is over \$75.00, \$250.00 or \$750.00, the subscribers may get a discount of 3%, 6% or 9%, respectively) to form a final toll amount which is a fixed amount less than the amount that would be billed in accordance with the lowest-cost rate plan of the plurality of rate plans (e.g., the lowest-cost rate plan is \$322.81, the final fixed amount would be \$303.44); and generating the billing record for the telephone subscribers based on the final toll amount.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLeodUSA.

Consider claims 4, 7. McLeod does not explicitly teach that the transaction data includes the time of day, date, duration and destination of the telephone call. The examiner takes official notice that it was notoriously well known in the art of telephone billing to monitor telephone activities and generate a call detail record (CDR) for each monitored call. It would have been obvious to one of ordinary skill in the art at the time the invention was made to generate the CDR which includes the caller's telephone number, called telephone number, duration of the call, time, date and any activity associated with the call in order to accurately calculate and bill the telephone subscriber the usage amount based on the information provided by the CDR.

***Response to Arguments***

5. Applicant's arguments filed 10/31/05 have been fully considered but they are not persuasive. See the explanation in the above rejection.

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*Allowable Subject Matter*

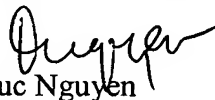
6. Claims 1-4 are allowed the prior art of record in a condition that a Terminal Disclaimer will be submitted based on US Patent No. 6,748,062. Since claims 1-14 of US Patent No. 6,748,062 cover claims 1-4 of this pending application.

*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Nguyen whose telephone number is (571) 272-7503. The examiner can normally be reached on 7:00AM-3: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kuntz Curtis can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Duc Nguyen  
Primary Examiner  
Art Unit 2643

1/10/06